



HAMPDEN TOWN COUNCIL WORKSHOP
HAMPDEN MUNICIPAL BUILDING
AGENDA

TUESDAY

FEBRUARY 22ND, 2022

5:00 P.M.

- A. CALL TO ORDER
- B. PLANNING & CED REPORT
- C. UNFINISHED BUSINESS
- D. NEW BUSINESS
 - a. Discussion regarding affordable housing initiative LD1673
 - b. Discussion regarding affordable housing initiative LD1884
 - c. Consideration of a Zoning Amendment to provide large scale solar in Residential B district – *requested by Jim Kiser*
 - d. Proposed amendment to the Remote Meeting Policy – referred from February 14th workshop
- D. ADJOURNMENT

Note: Council will take a five-minute recess at 8:00 p.m.

FOR THOSE THAT WISH TO PARTICIPATE IN THE
REMOTE COUNCIL WORKSHOP MEETING ON
FEB. 14,2022 AT 6:00 PM YOU MAY PHONE IN
USING THE FOLLOWING NUMBER (FOLLOWED
BY THE PIN #)

1-573-738-8252 PIN 773 151 8252#

OR-

FROM A LAPTOP OR A DESKTOP, YOU MAY GO
TO THIS URL: **[https://meet.google.com/dqp-
tqny-rue?hs=122&authuser=0](https://meet.google.com/dqp-tqny-rue?hs=122&authuser=0)** AND JOIN US
THAT WAY

**INSTRUCTIONS ARE POSTED WITH THE AGENDA
AND SEPARATELY ON THE TOWN CALENDAR AT
WWW.HAMPDENMAINE.GOV**



130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1673

H.P. 1244

House of Representatives, May 5, 2021

An Act To Create a Comprehensive Permit Process for the Construction of Affordable Housing

Received by the Clerk of the House on May 3, 2021. Referred to the Committee on Labor and Housing pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TALBOT ROSS of Portland.
Cosponsored by Senator MIRAMANT of Knox and
Representatives: CUDDY of Winterport, GERE of Kennebunkport, MORALES of South
Portland, SUPICA of Bangor, SYLVESTER of Portland, Senator: BALDACCI of Penobscot.

1 Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 30-A MRS.A c. 201, sub-c. 14 is enacted to read:

3 **SUBCHAPTER 14**

4 **MAINE COMPREHENSIVE PERMIT LAW**

5 **§4994-A. Maine comprehensive permit process established; definitions**

6 The Maine State Housing Authority and the municipal boards of appeals established
7 pursuant to section 2691 shall administer the Maine comprehensive permit process as
8 provided in this subchapter. As used in this subchapter, unless the context otherwise
9 indicates, the following terms have the following meanings.

10 **1. Affordable housing.** "Affordable housing" means a decent, safe and sanitary
11 dwelling, apartment or other living accommodation where the cost of housing and utilities
12 is no more than 30% of gross household income for a household whose income does not
13 exceed 120% of the median income for the area as defined by the United States Department
14 of Housing and Urban Development under the United States Housing Act of 1937, Public
15 Law 75-412, 50 Stat. 888, Section 8, as amended.

16 **2. Authority.** "Authority" means the Maine State Housing Authority.

17 **3. Board of appeals.** "Board of appeals" means a board of appeals established
18 pursuant to section 2691.

19 **4. Committee.** "Committee" means the Affordable Housing Appeals Committee
20 established under section 4994-C.

21 **5. Consistent with local needs.** "Consistent with local needs" means giving due
22 consideration to the regional need for low-income or moderate-income housing as well as
23 the need to protect the health or safety of the occupants of the proposed housing project or
24 of the residents of the city or town, to promote better site and building design in relation to
25 the surroundings or to preserve open space and applying that consideration equitably to
26 both subsidized and unsubsidized housing.

27 **6. Fair housing goal.** "Fair housing goal" means, for a municipality with 500 or fewer
28 households that would be eligible for low-income or moderate-income housing, at least
29 10% of its housing stock is affordable housing. For a municipality with 501 to 1,000
30 households that would be eligible for low-income or moderate-income housing, "fair
31 housing goal" means at least 13% of its housing stock is affordable housing. For a
32 municipality with more than 1,000 households that would be eligible for low-income or
33 moderate-income housing, "fair housing goal" means at least 16% of its housing stock is
34 affordable housing. Any municipality where 1.5% of more of the total land area zoned for
35 residential, commercial or industrial use is in use as low-income or moderate-income
36 housing is also in compliance with its fair housing goal.

37 **7. Limited dividend organization.** "Limited dividend organization" means an entity
38 that seeks to apply for a comprehensive permit and is not a public agency or a nonprofit
39 organization and is eligible to receive a subsidy from a subsidizing agency after a
40 comprehensive permit has been issued and that, unless otherwise governed by a federal act

1 or regulation, agrees to accept no more than a reasonable profit for building and operating
2 the housing project.

3 **8. Local board.** "Local board" means a municipal entity with a role in approving or
4 supervising the construction of residential buildings or the power of enforcing municipal
5 building laws.

6 **9. Low-income or moderate-income housing.** "Low-income or moderate-income
7 housing" means housing subsidized by the Federal Government or State Government under
8 a program to assist in the construction of low-income or moderate-income housing as
9 defined in the applicable federal or state law and built or operated by a public agency or a
10 nonprofit or limited dividend organization.

11 **10. Reasonable profit.** "Reasonable profit" means a maximum of 20% profit in for-
12 sale developments or 10% profit per year for rental housing developments unless indicated
13 otherwise in the subsidy program or the comprehensive permit.

14 **11. Uneconomic.** "Uneconomic" means any condition brought about by a single factor
15 or combination of factors to the extent that it makes it impossible for a public agency or
16 nonprofit organization to proceed in building or operating low-income or moderate-income
17 housing without financial loss or for a limited dividend organization to realize a reasonable
18 profit in building or operating such housing within the limitations set by the subsidizing
19 agency without substantially changing the rent levels, unit sizes or density proposed by the
20 public agency or the nonprofit or limited dividend organization.

21 **\$4994-B. Comprehensive permits**

22 In order to facilitate timely and efficient decision making on proposed housing projects,
23 a public agency or a nonprofit or limited dividend organization proposing to build low-
24 income or moderate-income housing may submit to a board of appeals a single
25 comprehensive permit application to build that housing in lieu of separate applications to
26 the applicable local boards pursuant to this section.

27 **1. Procedures.** The following procedures govern applications for a comprehensive
28 permit under this section.

29 A. Upon receipt of a comprehensive permit application, a board of appeals shall notify
30 each local board whose jurisdiction is affected by the permit of the filing of the
31 application by sending a copy of the application to each local board for its
32 recommendations.

33 B. The board of appeals shall, within 30 days of the receipt of a comprehensive permit
34 application under paragraph A, hold a public hearing and shall request the appearance
35 of such representatives of local boards as are determined necessary or helpful. The
36 board of appeals shall take into consideration the recommendations of local boards and
37 has the authority to use the testimony of consultants.

38 C. The board of appeals in issuing a comprehensive permit has the same power to issue
39 permits or approvals as any local board that would otherwise act with respect to an
40 application, including but not limited to the power to attach conditions and
41 requirements with respect to the site plan and the height, size or shape and building
42 materials of the housing consistent with this section.

1 D. The board of appeals shall render a decision, based upon a majority vote, within 40
2 days after the conclusion of the public hearing under paragraph B and, if favorable to
3 the applicant, shall issue a comprehensive permit.

4 E. If a public hearing under paragraph B is not convened or a decision under paragraph
5 D is not rendered within the time allowed, unless the time has been extended by mutual
6 agreement between the board of appeals and the applicant, the application is deemed
7 to have been approved and the comprehensive permit must be immediately issued.

8 F. An applicant aggrieved by the decision on a comprehensive permit application may
9 appeal to the Affordable Housing Appeals Committee under section 4994-C.

10 G. A board of appeals shall adopt rules, not inconsistent with the purposes of this
11 subchapter, for the conduct of its business pursuant to this subchapter and shall provide
12 those rules to the municipal clerk.

13 2. Waivers. A board of appeals has authority to waive local laws or regulations in
14 whole or in part, including but not limited to local density limitations, if that waiver results
15 in a comprehensive permit application decision that is consistent with local needs.

16 3. For-profit developers. An applicant seeking a comprehensive permit for a housing
17 project must enter a binding, verifiable obligation with the board of appeals that it agrees
18 to accept no more than a reasonable profit on that project.

19 4. Other state law. Nothing in this subchapter may be interpreted to limit the
20 application of state laws to an application for a comprehensive permit, including but not
21 limited to laws governing land use and environmental protection.

22 **§4994-C. Affordable Housing Appeals Committee**

23 The authority shall establish and operate the Affordable Housing Appeals Committee,
24 referred to in this section as "the committee," pursuant to this section.

25 1. Committee members. The committee consists of 5 members. The authority shall
26 appoint to the committee 3 members with substantive experience in affordable housing or
27 housing finance, including one member who is an employee of the authority. The Governor
28 shall appoint as the remaining members of the committee 2 members with experience in
29 municipal government. Terms of appointment are for one year and may be renewed by the
30 appointing authority. The members serve without compensation.

31 2. Powers and duties. The committee is authorized to hold hearings and to consider
32 and decide upon appeals from a board of appeals' denial under section 4994-B of a
33 comprehensive permit or grant of a comprehensive permit with conditions rendering the
34 housing project uneconomic, as follows.

35 A. The committee may not consider or decide upon any appeal of a comprehensive
36 permit application for a housing project proposed to be located in a municipality that
37 appears on the list of municipalities in good standing for low-income or moderate-
38 income housing established by section 4994-D.

39 B. The committee may not overturn or modify the decision of a board of appeals if the
40 board of appeals establishes that its decision is consistent with local needs.

41 C. In the case of the denial of an application, a hearing by the committee must be
42 limited to the issue of whether the decision of the board of appeals was reasonable and

1 consistent with local needs. If the committee finds, in the case of a denial, that the
2 decision of the board of appeals was unreasonable and not consistent with local needs,
3 it shall vacate that decision and shall direct the board of appeals to issue a
4 comprehensive permit to the applicant.

5 D. In the case of an approval of an application with conditions and requirements
6 imposed, the hearing must be limited to the issues of whether those conditions and
7 requirements make the construction or operation of that housing uneconomic and
8 whether they are consistent with local needs. If the committee finds, in the case of an
9 approval with conditions and requirements imposed, that the decision of the board of
10 appeals makes the building or operation of that housing uneconomic and is not
11 consistent with local needs, the committee shall order that board of appeals to modify
12 or remove any condition or requirement so as to make the proposal no longer
13 uneconomic and to issue the comprehensive permit.

14 E. The committee may not issue any order that would permit the building or operation
15 of housing in accordance with standards less safe than requirements of state laws or
16 rules or federal laws or regulations applicable to the proposal.

17 F. Decisions or conditions and requirements imposed by a board of appeals that are
18 consistent with local needs may not be vacated, modified or removed by the committee,
19 notwithstanding that those decisions or conditions and requirements have the effect of
20 making the applicant's proposal for a comprehensive permit uneconomic.

21 G. The committee or the applicant for a comprehensive permit has the power to enforce
22 the orders of the committee at law or in equity in Superior Court.

23 H. The board of appeals shall carry out the order of the committee within 30 days of
24 the committee's decision and, upon failure to do so, the order of the committee is
25 deemed to be the action of the board of appeals, unless the applicant consents to a
26 different decision or order by the board of appeals.

27 3. Procedure. An applicant contesting a board of appeals' denial under section 4994-B
28 of a comprehensive permit or grant of a comprehensive permit with conditions attached
29 must initiate an appeal with the committee within 20 days of receiving notice of the
30 decision of the board of appeals. The committee shall hold a hearing and shall render a
31 written decision, based upon a majority vote, stating its findings of fact, its conclusions and
32 the reasons for its conclusions within 30 days after the conclusion of the hearing, unless
33 the committee and the applicant have mutually agreed upon a time extension. A decision
34 under this subsection may be reviewed in Superior Court in accordance with the provisions
35 of the Maine Rules of Civil Procedure, Rule 80B.

36 **§4994-D. Register of municipalities in good standing for low-income or moderate-**
37 **income housing**

38 The authority shall maintain a register of municipalities indicating whether each
39 municipality is in good standing for low-income or moderate-income housing as set forth
40 in this subchapter. The authority shall establish the methodology and frequency for such
41 determinations, which must be no less frequent than annually.

42 **1. Municipalities in compliance with fair housing goal.** The register must include
43 any municipality that the authority determines to be in compliance with its fair housing
44 goal.

1 **2. Municipalities making substantial progress.** The register must include any
2 municipality that the authority determines to be making substantial recent progress toward
3 meeting its fair housing goal and that has a substantial probability of meeting that goal
4 within 3 years. When determining substantial recent progress, the authority may consider
5 whether a municipality has instituted a density bonus to developers in proportion to the
6 number of affordable housing units planned for housing projects and whether the
7 municipality has adopted a local plan by which the municipality incentivizes the
8 development of affordable housing and is in compliance with that plan.

9 **3. Discount for devalued siting.** When determining a municipality's compliance with
10 its fair housing goal, the authority shall disregard 1/2 of the housing units created after
11 January 1, 2022 that are located in close proximity to major transportation infrastructure or
12 industrial facilities or that result in excessive clustering of low-income or moderate-income
13 housing. The authority may adopt rules under section 4994-E to implement this subsection.

14 **§4994-E. Rules**

15 The authority may adopt rules necessary to carry out the duties imposed by this
16 subchapter and to ensure compliance with its provisions. Rules adopted pursuant to this
17 paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

18 **SUMMARY**

19 This bill establishes a comprehensive permit process to streamline the building
20 construction permitting system and promote the creation of additional affordable housing
21 by public agencies, nonprofit organizations and limited dividend organizations.



130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1884

H.P. 1394

House of Representatives, January 5, 2022

An Act To Create Affordable Agricultural Homesteads

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BICKFORD of Auburn.
Cosponsored by Senator TIMBERLAKE of Androscoggin and
Representatives: DILLINGHAM of Oxford, Speaker FECTEAU of Biddeford, TERRY of
Gorham.

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is essential to promote agricultural endeavors of all sizes, including subsistence farming and agricultural operations that have a large market share; and

Whereas, less restrictive land use policies will encourage agricultural, commercial and residential development in this State; and

Whereas, agricultural and residential development historically occur in tandem and should be addressed simultaneously; and

Whereas, delaying this legislation beyond the 90-day period would detrimentally affect the development of agricultural homesteads; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §4364 is enacted to read:

§4364. Residential construction

This section governs a municipality's regulation of residential construction.

1. Income requirements prohibited. A municipality may not establish an income requirement as a condition for residential construction in any zone regardless of the zone's primary use.

2. Conditions. For residential construction in an area zoned for agricultural uses, a municipality may not require a condition that is more restrictive than any condition under Title 36, section 1102, subsection 4.

Sec. 2. 30-A MRSA §4365 is enacted to read:

§4365. Minimum lot size requirements for agricultural zones

For areas zoned primarily for agricultural uses, a municipality may not require a minimum lot size of more than twice the minimum lot size of the most restrictive residential zone in that municipality.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill prohibits a municipality from requiring:

1. An income requirement as a condition for residential construction;
2. A condition of residential construction in an agricultural zone that is more restrictive than any condition on farmland under the State's farm tax law; and
3. A minimum lot size for zones primarily used for agriculture that is more than twice the minimum lot size of the most restrictive residential zone in that municipality.



Memorandum

TO: Town Council
FROM: Paula Scott, Town Manager
DATE: February 17, 2022
RE: Proposed amendment to the solar use table

Jim Kiser had inquired about an amendment to the use table in the Solar Ordinance which was expected to be on the workshop agenda dated February 14th but was omitted in error. We have placed his request on this agenda in the interest of time.

D-c



Paula Scott <townmanager@hampdenmaine.gov>

Fwd: solar ordinance

1 message

Clifton Iler <planner@hampdenmaine.gov>

Wed, Feb 16, 2022 at 11:28 AM

To: Paula Scott <townmanager@hampdenmaine.gov>

Here is the request from Jim Kiser regarding adding a solar ordinance discussion to the Town Council workshop (this past Monday). Since it didn't make the agenda I told him to come share his thoughts at the Tuesday meeting. Just wanted to keep you updated.

Clifton J. Iler, AICP
Town Planner
Town of Hampden
106 Western Ave
Hampden, ME 04444
P: 207.862.3034 x160

----- Forwarded message -----

From: **Jim Kiser** <jim@kiser-kiser.com>
Date: Thu, Jan 27, 2022 at 1:50 PM
Subject: solar ordinance
To: Clifton Iler <Clifton@hampdenmaine.gov>

Clifton,

After reviewing the ordinance, I see that it does not work for a potential site being evaluated, ie Large Scale in the Res B district. I am wondering, if the location is a really good use for the property but I know that it would not be feasible, based on past town zone changes, to change the zone, could the ordinance be amended to provide Large Scale Solar in Res B if there were other requirements place on the developer. These could be larger buffers, denser buffers/berms, solid fencing or other actions that could protect abutting properties but use a property that probably can not be effectively used for other allowed used due to environmental issues. For reference, solar projects can impact areas of wetland but the permitting does not require compensation for impacts associated with conversing of woods to meadow or shading of the wetland. The only impacts considered are from the direct placement of foundation posts.

I would be happy to further discuss this potential if you think there is a possibility, maybe a conditional use, for the modifications.

Thanks.



James Kiser



PO Box 282

Hampden, ME 04444

207-862-4700

**TOWN OF HAMPDEN, MAINE
SOLAR ENERGY ORDINANCE**

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ADOPTED: Hampden Town Council December 7, 2020
Effective: January 6, 2021

CERTIFIED BY:


Gayle C. Decker, Town Clerk

1. Purpose

- a) Solar energy is a local, renewable, and non-polluting energy resource that can reduce fossil fuel dependence on emissions. Energy generated from solar energy systems can be used to offset energy demand on the grid, with benefits for system owners and other electricity customers.
- b) The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is an important component of the Town of Hampden's sustainability goals.
- c) The standards that follow enable the accommodation of solar energy systems and equipment in a safe manner while still allowing the quiet enjoyment of property.
- d) This ordinance is intended to balance the need for reasonable standards and expedited and streamline development review procedures.

2. Definitions

Solar Energy System: A device or structural design feature whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Energy System, Roof-Mounted: A Solar Energy System that is mounted on the roof of a building or structure.

Solar Energy System, Ground-Mounted: A Solar Energy System that is structurally mounted to the ground and is not roof-mounted.

1. **Solar Energy System, Small-Scale** is a ground-mounted system whose physical size based on total airspace projected over the ground is less than 15,000 square feet (approximately one-third of an acre):
2. **Medium-scale Solar Energy system** is on whose physical size based on total airspace projected over a roof or on the ground is equal to or greater than 15,000 square feet but less than 87,120 square feet (two acres); and
3. **Large-scale Solar Energy System** is one whose physical size based on total airspace projected over a roof or the ground is equal to or greater than 87,120 square feet (two acres).

3. Applicability

- a) Notwithstanding the provisions of 1 M.R.S.A. section 302 or any other law to the contrary, the requirements of this ordinance shall apply to all roof-mounted and ground-mounted solar energy systems modified or installed after the date of its enactment.
- b) All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and standards.
- c) Any upgrade, modification or structural change that alters the size, placement or output of an existing solar energy system shall comply with the provisions of this ordinance.
- d) For this ordinance, the Town of Hampden's zoning districts are mapped and categorized as follows:

Table 3.1 Use Table

Permitting Required for Solar Energy Systems

	Rural	Res A	Res B	Seasonal	Rural Bus	Bus	Bus B	Town Center	Comm Service	Waterfront	Inter change	Ind Park	Ind	Ind2
Rooftop SES	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Small-Scale Ground-Mounted solar	MSP	MSP	MSP	MSP	MSP	MSP	MSP	MSP	MSP	MSP	MSP	MSP	MSP	MSP
Medium-Scale Ground-Mounted Solar	MJR	N	MJR	N	MJR	N	N	N	N	N	MJR	MJR	MJR	MJR
Large-Scale Ground-Mounted Solar	MJR	N	N	N	MJR	N	N	N	N	N	MJR	N	MJR	MJR
Y = allowed N=Prohibited MSP= Minor Site Plan Review MJR= Major Site Plan Review														

4. General Standards and Applicability

- A solar energy system or device shall be installed or operated in the Town of Hampden provided it is compliant with this ordinance.
- Permitting shall be determined by zone within the Town of Hampden, type of solar system, and proposed size. The Town of Hampden has designated the proper permitting process for each solar system in the above matrix entitled "Permitting Required for Solar Energy Systems."
- All Solar Energy Systems, Roof-mounted and Ground-mounted are subject to the Dimensional Standards of Section 5 and the Performance Standards outlined in Section 6 of this ordinance.

5. Dimensional Standards

- Solar Energy Systems, Roof-Mounted
 - Height:
 - In mixed-use and non-residential commercial/industrial zones, solar energy systems shall be mechanical devices and, for purposes

of height measurement, are restricted only to the extent consistent with other building-mounted mechanical devices.

2. In all other zoning districts, such systems shall conform to the maximum building height requirements of the zoning district in which they are located. See Article 3.4 Table 3.4.1 in the Town of Hampden's Zoning Ordinance for maximum building heights.

b) Solar Energy Systems, Ground-Mounted

- i. Height standards for ground-mounted solar energy systems are dependent on location and zoning district. Height shall be measured from the lowest point of the structure above grade to the highest point of the facilities when oriented at maximum tilt.

1. In residential and mixed-use zoning districts, such systems shall not exceed sixteen (16) feet in height when oriented at maximum tilt.
2. In all other zoning districts, such systems shall conform to the building height requirements of the zoning districts in which they are located. See Article 3.4 Table 3.4.1 in the Town of Hampden's Zoning Ordinance for maximum building heights.

ii. Setbacks

1. Minimum setback shall conform to the requirements of the zoning district in which the system is located. Article 3.4.2. of the Town's Zoning ordinance for setback standards.
2. Additional setbacks may be required to mitigate visual and functional impacts.

6. Performance Standards

- a) Solar Energy Systems (including Roof-Mounted and Small-Scale) must conform with the following standards:**

- i. Roof-mounted and building-mounted solar energy systems and equipment are permitted by right unless they are determined by the Code Enforcement Officer and Fire Chief to present one or more unreasonable safety risks, including, but not limited to the following:
 1. Weight load;
 2. Wind resistance;
 3. Ingress or egress in the event of fire or another emergency; or
 4. Proximity of a ground-mounted system relative to buildings.
- ii. All solar energy system installations shall be installed in compliance with manufacturer's instructions and the photovoltaic systems standards.
- iii. All wiring shall be installed in compliance with the manufacturer's instructions and NEC national electric code.

- iv. Prior to operation, electrical connections must be inspected and approved by the Code Enforcement Officer and Fire Chief.

b) Medium-Scale and Large-Scale Ground Mounted Solar Energy Systems

In addition to the standards in Section 1, large-scale and medium-scale ground-mounted solar energy systems shall comply with the following:

i. Utility Connections:

- 1. Utility connections shall be underground wherever possible.

ii. Safety:

- 1. The solar system owner or project proponent shall provide a copy of the Site Plan Review application to the Planning Department for review and comment. The Planning Department shall base any recommendation for approval or denial of the application upon review of the safety of proposed system.

iii. Visual Impact:

- 1. Reasonable efforts, as determined by the Planning Board, shall be made to minimize undue visual impacts by preserving native vegetation, screening abutting properties, or other appropriate measures, including adherence to height standards and setback requirements.

iv. Land Clearing, Soil Erosion, and Habitat Impacts:

- 1. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations and bylaws/ordinances.
- 2. Ground-mounted facilities shall minimize mowing to the extent practicable.
- 3. Removal of mature trees shall be avoided to the extent possible.
- 4. Native, pollinator-friendly seed mixtures shall be used to the extent possible.
- 5. Herbicide and pesticide use shall be minimized. No prime agricultural soil or significant volume of topsoil shall be removed from the site for installation of the system.

v. Fencing:

1. Where fencing is used, fences should be elevated by a minimum of 5 inches to allow for passage of small terrestrial animals.

vi. Removal:

1. Solar energy systems that have reached the end of their useful life or that have been abandoned consistent with this ordinance shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notice the Town of Hampden Planning Department of the proposed date of discontinued operations and plans for removal.
2. Removal should consist of:
 - a. Physical removal of all solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
 - b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - c. Stabilization or re-vegetation of the site to minimize erosion. Native, pollinator-friendly seed mixtures shall be used to the maximum extent possible.

vii. Abandonment:

1. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a medium or large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than 150 days.
2. A surety is required at the time of Planning Board review of a Site Plan application for the assumption of any debt, default, non-compliance with State and Federal laws or local ordinances, or failure of the array falls to the principal (contractor/developer/investor/solar company) and not the obligee (owner).
3. At the time of Planning Board review of a Site Plan application and permit, the applicant for a medium or large-scale ground mount solar array system shall identify how it shall provide a performance guarantee payable to the benefit of the Town of Hampden, a municipal corporation, for all costs associated with the removal of an approved solar energy system that has been abandoned on public land. The performance guarantee shall be equal to one hundred fifty (150) percent of the estimated cost of removal. The performance guarantee can be in the form of a

Solar Contractor Surety Bond or Solar Decommissioning Bond and may be acceptable to the Town as determined by the planning board and legal counsel for the Town of Hampden. The financial guarantee shall include a provision granting and guaranteeing the Town the authority to access the funds and property and perform the decommissioning if the facility is abandoned and the owner or operator fails to meet their obligations to remove the solar energy system. The applicant shall provide the Town the identified performance guarantee prior to the issuance of a building permit by the Code Enforcement Officer for the solar energy system. The owner or operator shall also be responsible for notifying the Town in writing if the performance guarantee is revoked, and in such cases, shall provide the Town a replacement guarantee that is found acceptable by legal counsel for the Town within ninety (90) days, or the owner's or operator's permit to operate the system shall be revoked. The owner or operator shall be responsible to pay the Town's legal fees.

4. If the owner or operator of the solar energy system fails to remove the installation within 150 days of abandonment or the proposed date of decommissioning, the Town of Hampden or the obligee retains the right to use all available means to cause an abandoned, hazardous, or decommissioned medium and large-scale ground-mounted solar energy system to be removed.
 5. If an owner or operator successfully removes a medium or large-scale solar energy system in accordance with requirements of this Section, and the Town's Code Enforcement finds that the removal was successfully completed, the owner or operator may apply to the Planning Department for the release of the performance guarantee identified in this Section. The Town shall not unreasonably withhold the release of a performance guarantee post a determination by the Code Enforcement Officer that an owner or operator has successfully removed a solar energy system.
- ...
- viii. Large-scale ground mounted solar energy systems shall not be considered accessory uses.
 - ix. Operations and Maintenance Plan:
 1. The project proponent shall submit a plan for the operation and maintenance of the medium and large-scale ground-mounted

solar energy system, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.

x. Signage:

1. A sign shall be required to identify the owner and provide a 24-hour emergency contact phone number.

xi. Emergency Services:

1. The Medium or Large-scale ground-mounted solar energy system owner or operator shall provide a copy of the project summary electrical schematic, and site plan to the Planning Department.
2. Upon request, the owner or operator shall cooperate with Public Safety in developing an emergency response plan.
3. All means of shutting down the system shall be clearly marked.
4. The owner or operator shall provide to the Planning Department the name and contact information of a responsible person for public inquiries throughout the life of the installation.

7. Site Plan Application and Review

Please refer to the Town of Hampden Zoning Ordinance in Article 4.1.

a) Applicability:

- i. Roof-mounted systems are not subject to Site Plan Review.
- ii. Small-Scale ground-mounted solar energy systems are subject to Minor Site Plan Review.
- iii. Medium-Scale ground-mounted solar energy systems are subject to Major Site Plan Review.
- iv. Large-Scale ground-mounted solar energy systems are subject to Major Site Plan Review.

b) In addition to the Town of Hampden's site plan application requirements in Article 4.1., the Applicant shall submit the following supplemental information as part of a site plan application:

- i. A site plan showing:
 1. Property lines and physical features, including roads, for the project site;
 2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 3. Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all

property lines and existing on-site buildings and structures, and the tallest finished height of the solar collector;

4. Documentation of the major system components to be used, including the panels, mounting systems, and inverter(s);
5. Name, address, and contact information of the proposed system installer, the project proponent, project proponent agent, and all co-proponents or property owners, if any; and
6. A one-or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods.
7. Locations of important plant and animal habitats identified by the Maine Department of Inland Fisheries and Wildlife or Town of Hampden, or rare and irreplaceable natural areas, such as rare and exemplary natural communities and rare plant habitat as identified by the Maine Natural Areas Program.
8. Locations of wetlands and waterbodies.
9. Location of floodplains.
10. Locations of local or National or Historic Districts.
11. A public outreach plan, including how the project proponent will inform abutters and the community.
12. A removal plan with a performance guarantee (Refer to Section 7.g. in this ordinance)
13. An Operations and Maintenance Plan

8. Review Procedure and Process

Please refer to Article 4 in the Town of Hampden's Zoning Ordinance for the Town's review process and approval standards.

9. Fees.

The Town may adopt administrative fees and technical review fees for site plan review. Refer to Town's Fees Ordinance Article 2.20.

10. Legal Action and Violations

a) When any violation of any provision of this ordinance shall be found to exist, the Code Enforcement Officer is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Hampden. This Section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this ordinance.

b) Any person, firm, or corporation, being the owner of, or having control of, or the use of any building or land or part thereof, who violates any of the provisions of this ordinance shall

by guilty of a civil violation and upon conviction thereof shall be fined in accordance with the following:

- i) The minimum penalty for starting construction or undertaking a land use activity without a required permit penalty shall be one hundred dollars (\$100.00), and the maximum penalty shall be two thousand five hundred dollars (\$2500.00).
- ii) The minimum penalty for a specific violation shall be one hundred dollars (\$100.00), and the maximum penalty shall be two thousand five hundred dollars (\$2500.00).
- c) All civil penalties imposed shall ensure to the benefit of the Town of Hampden. Each day any violation continues to exist after notification shall constitute a sperate offense.

**Memorandum**

TO: Town Council
FROM: Paula Scott, Town Manager
DATE: February 17, 2022
RE: Remote Meeting Policy amendment

In municipal government, often times policies and procedures are amended, revised, or rescinded by the municipal officers in a manner that as a practical matter focuses on the intent of moving local government forward in a reasonably timely manner. In Hampden, we recognize Robert's Rules of Order as our guide to conducting effective meetings, rather than the Maine Moderator's Manual.

Following Robert's Rules, in my opinion I do not believe that the Remote Meeting Policy can be suspended. As a policy it seems to fit the criteria of bylaws or a constitution which may *not* be suspended. The policy itself, which template was provided by MMA and which our legal counsel reviewed clearly states that it can be amended or rescinded. Therefore, following this memo you will find a red-lined version of the remote meeting policy with proposed *amendment* for consideration.